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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Misconduct in Science/Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that effective on March 14, 2013, a Settlement Agreement was made and entered into by and between Dr. Philippe Bois and the United States Department of Health and Human Services (HHS), Kathleen Sebelius, Howard K. Koh, Nancy Gunderson, and Donald Wright (collectively HHS) by and through the United States Attorney for the District of Columbia in *Bois v. HHS, et al.*, Civil Action no. 11-cv-1563, which was pending before the U.S. District Court for the District of Columbia.

In the Settlement Agreement, HHS and Dr. Bois agreed to settle the proceedings before the District Court of the District of Columbia as well as to resolve all administrative matters pending at HHS.

ORI found that Philippe Bois, Ph.D., former postdoctoral fellow, Department of Biochemistry, St. Jude Children's Research Hospital, engaged in research misconduct in research funded by National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH),

grant R01 GM071596, and National Cancer Institute (NCI), NIH, grants P30 CA021765, P01 CA071907, R01 CA072996, and R01 CA100603.

In the Settlement Agreement, the parties agreed that ORI found by a preponderance of the evidence that the Respondent committed misconduct in science and research misconduct by:

1. knowingly and intentionally falsely reporting that FOXO1a was not expressed in cell lysates from alveolar rhabdomyosarcoma (ARMS) tumor biopsies, by selecting a specific FOXO1a immunoblot to show the desired result, in Figure 1A of the following paper: Bois, P.R., Izeradjene, K., Houghton, P.J., Cleveland, J.L., Houghton, J.A., & Grosveld, C.G. "FOXO1a acts as a selective tumor suppressor in alveolar rhabdomyosarcoma." *J. Cell. Biol.* 170:903-912, September 2005 ("JCB 2005")
2. falsifying data showing SDS-PAGE for papain digestion of VBS3 and α VBS, by falsely labeling lane 1 to represent papain only digestion, by falsely labeling lane 5 to represent papain digestion of the α VBS peptide, and by falsely inserting a band in lane 3 to represent the α VBS peptide, in Figure 4B of the following paper: Bois, P.R., Borgon, R.A., Vornhein, C., & Izard, T. "Structural dynamics of α -actinin-vinculin interactions." *Mol. Cell. Biol.* 25:6112-6122, July 2005 ("MCB 2005").

The parties further agreed that Dr. Bois denied committing research misconduct and, pursuant to

42 CFR Part 93, filed a timely request for a hearing at which to contest ORI's findings. An HHS Administrative Law Judge (ALJ) denied Dr. Bois' request for a hearing. HHS subsequently entered a debarment order against Dr. Bois. Dr. Bois filed the above referenced lawsuit in the United States District Court for the District of Columbia asking the Court to vacate the debarment order and remand the matter for further proceedings before HHS, including but not limited to granting Dr. Bois' request for a hearing.

On March 2, 2012, Judge Berman Jackson of the United States District Court for the District of Columbia issued an order vacating HHS' debarment order, affirming Finding #1, and remanding the matter to HHS for further proceedings regarding Finding #2. On March 30, 2012, HHS filed a Motion for Reconsideration before Judge Berman Jackson.

On March 14, 2013, Dr. Bois and HHS entered into a Settlement Agreement (Agreement) to settle and dismiss the pending civil action. The terms of the Settlement Agreement include that Dr. Bois denied that he committed research misconduct but he agreed not to further appeal ORI's findings of research misconduct set-forth above. Dr. Bois and HHS further agreed to the following administrative actions beginning on March 14, 2013:

- (1) to have his research supervised for a period of three (3) years beginning on the effective date of the Agreement; he agreed that prior to the submission of an application for U.S. Public Health Service (PHS) support for a research project on which his participation is proposed and prior to his participation in any capacity on

PHS-supported research, he shall ensure that a plan for supervision of his duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of his research contribution; he agreed that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI, with such review and approval to be conducted promptly by ORI and not unreasonably withheld; he agreed to maintain responsibility for compliance with the agreed upon supervision plan;

(2) that for three (3) years beginning with the effective date of the Agreement, any institution employing him shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Dr. Bois is involved, a certification to ORI that the data provided by him are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract; and

(3) to exclude himself voluntarily from serving in any advisory capacity to PHS, including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of three years (3) beginning with the effective date of the Agreement.

Dr. Bois further agreed to dismiss his lawsuit with prejudice and to withdraw further proceedings

before HHS. Dr. Bois and HHS both agreed to waive or abandon all other claims.

This notice supercedes the notice regarding this matter that was previously published in: *Federal Register* 76:111, June 9, 2011.

FOR FURTHER INFORMATION CONTACT:

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